

Answers to questions asked at the ITSP Industry Day (11 Jan 99)

The following is a list of questions that were asked at the Industry Day. Questions have been included if we were unable to answer them at the time. Also included are questions that were asked frequently, as well as questions in which the government's response appeared to be inconsistent.

1) When the team lead has been given an RFQ and proposes breaking up the work into separate orders, is the SOO broken up as well?

If necessary to respond to the RFQ preference for additional "direct ordering" in order to satisfy socio-economic related obligation goals, "yes". The bottom line is that the BPA "Lead" is responsible for proposing who on the team will support what portion of the total "requirements solution", and quantify that segregated support, so that once a user determines whose proposal yields the overall best value, they can award in accordance with the proposed support to be provided by each party (Lead and/or teammates) via distinct task orders.

2) Is there a GSA maximum order amount of \$500,000?

This "maximum order" amount is specified in paragraph 11 of the GSA contract. The primary purpose of this is to "assist the customer agencies to determine when they should seek a price decrease." Program offices may place orders for amounts greater than the "maximum order" threshold in accordance with FAR 8.404.

This does not, however, prohibit contractors from offering discounts on orders under \$500,000. Contractors may elect to offer discounts to the government in consideration of the scope of an order, location where the work is to be performed, or any other relevant factors.

3) Paragraph 14 of the BPA defines a man-year as 1,764 hours. If a company uses a greater number of hours as their man-year, how do they resolve this for billing purposes?

This BPA provision is basically for Govt. use only. DoD has defined a Contract Man-year Equivalent (CME) as 1,764 hours. The generic explanation of this is that DoD deems that figure as the average "productive" amount of hours each civil servant provides yearly after subtracting (from 2,080) the average number of hours "lost" to: Federal Holidays (80); Annual Leave (160-200); Sick Leave; and Training; sum total being 316. This doesn't mean that a user cannot procure more than 1,764 man-hours

from each contractor support resource who is billable; but it indicates that if a user's support force averages 1,920 hours per allocated resource, for example, that user is procuring closer to 1.1 man-years of support per individual, rather than 1 year. For DoD/AF A&AS ceiling purposes, if the user is allocated 100 man-years of support, at the above average man-hour burn rate, they could likely only acquire 91 or so individuals, rather than 100.

4) To what extent does the OCI clause apply to large business with separate distinct division?

According to the OCI clause, paragraph (b)(7) considers "Contractor" to include all divisions in a company ("...its parents, affiliates, divisions, and subsidiaries").

5) For the purposes of billing: If a separate award is made to a team member, is the billing handled directly with that team member, or does it pass through the team leader?

If a separate award is made to a "teammate", the billing would emanate from that company as in any traditional "prime contractor" relationship because of the "privity-of-contract" between the Govt. ordering entity and the company awarded the order. The performing contractor would submit final monthly invoices to the payment center location themselves, not through the BPA Lead.

6) Do all responses to RFQs have to come from the team leader?

All proposal responses must come from the BPA Team Lead/Prime. The team lead may propose direct orders to "teammates", but the consolidated response to the RFQ comes from the team lead. A direct order to a BPA Prime's "teammate" (company having own GSA schedule for possible direct ordering) results in "privity-of-contract" between the Air Force and that company. However, the BPA Prime/Lead needs to be aware of the performance of its whole team, so some post award communication between the user & the "Lead" would not be unexpected in certain instances where the Lead is not the only team entity awarded an order.

7) There are costs associated with managing a team. If a team leader proposes that a task be accomplished by a team member, this is a service to the government. Is the team leader compensated for this effort?

In a typical A&AS ID/IQ contract (with subcontractors, not "team members"), it has been our experience that these costs are generally recovered by the prime tacking on some "pass through" percentage to the subs rates. This practice would not normally be

present in our ITSP program, when direct awards are made to teammates, in addition to any made to the Lead.

Further "food for thought":

The costs associated with managing a team would generally consist of the costs associated with responding to the BPA submission as well as costs associated with preparing for and responding to RFQs. These would be considered proposal costs, which are simply part of the cost of doing business, and are generally not directly chargeable. This does not prohibit BPA Team Leads and teammates/subcontractors from having their own agreements on sharing costs when a Team Lead proposes work be accomplished by other parties on their BPA Team.

8) Do task orders under \$500,000 not require competition?

Estimated requirements of \$500,000 or less require that a user solicit no fewer than 3 BPA Teams for proposals to be evaluated, and a "downselect" decision for the "best value requirements solution" to be made (single or multiple awards are possible). For estimated requirements in excess of \$500,000, no fewer than 4 BPA Teams are to be solicited.

9) If a small business is awarded an order, is there a requirement that the small business perform at least 50% of the work?

Unlike with the FAR requirement under ID/IQ contracts for the SB community (when they're the Prime) to do at least 50+% of the cost of labor, there is no such requirement under the GSA FSS Schedules performance. However, in the spirit of what the regulation/statute has intended elsewhere, we (ITSP) have said that the SB, SDB, or Woman-Owned business must do a substantial portion of the work (upwards of 40% at least). We don't want small businesses "fronting" awards purely for SB goal credit for the users, and then performing only 10% of the work, for instance, and passing through the other 90% to subcontractors on their BPA team. That does not fulfill Congress' intent on fostering actual SB participation/performance under Govt. contracts.

10) If a team leader proposes to split the work, who is responsible for the integration? In a situation like this, the program office originally issued one requirement. However, when this original requirement is split, who ensures that the results of one task integrate with the other, when these are separate contracts?

It is important for the BPA Team Lead to address this when they respond to the RFQ. Although each direct order obligation technically stands on its own (from a "privity of contract" perspective between the Govt. and the performing company), I suspect that the user will be looking at the performance of the BPA Team as a whole. If it's

necessary for the Lead to oversee the work of teammates, then the BPA Team members may have to work out "cost sharing arrangements" for the function to be led by the BPA Lead/Prime on behalf of the team as a whole.

11) What happens if a BPA holder has rates negotiated out to a certain day, but an RFQ anticipates performance beyond that date (to include options)?

I believe that all GSA schedules are being extended to at least 31 MAR 02, if not beyond. Program offices need to clarify with the teams they'd like to solicit as to their current GSA Schedule period of performance, and if no rates beyond 1999 are present, when they will propose new rates (or will they simply come in with a request for a % increase to existent rates under the Economic Price Adjustment clause incorporated in their GSA contract).

12) Since it is not the intention of the ITSP to procure computer hardware and software, does this restrict it's usefulness to the Geographically Separated Units (GSUs)?

Not necessarily. Although ESC-Hanscom might possibly have a larger ratio of use, it's still likely that A&AS services within the scope of ITSP will be required in some capacity by the GSUs.

13) Does ESC still intend to award separate BPAs for the Specialized Cost Services (SCS), or will they be rolled into the ITSP program?

At this point, ESC intends to award separate BPAs (under the ITSP "umbrella" program) for the SCS work. Information on this program can be found in the Specialized Cost Services portion of the HERBB web site (<http://herbb.hanscom.af.mil/>).

In the event that the SCS work is eventually rolled into the overall ITSP, the SCS BPA holders will likely be invited to modify their BPAs to participate in the full spectrum of ITSP.)

14) To what extent is a team leader responsible for the performance of a team member? To what extent is a team leader responsible for the performance of a team member's subcontractor?

When a separate order is placed with a team member, a "privity of contract" exists between the government and the team member. The team leader is not contractually responsible for the actions of the team member so long as it is a separate order.

Likewise, in the case of a team member's subcontractor, the team leader is not contractually responsible so long as a separate order exists with the team member.

Although there is no contractual obligation, this does not mean that the perception of the team's capabilities could not still be damaged by the poor performance of a team member. As a reminder, BPA Team Leads are the ones presented with requirements to propose against, and it is up to them to determine how to split the order, if at all. Additionally, Team Leads are allowed to unilaterally add and delete members of their team as they see fit.

15) We have been awarded a BPA, and wish to add a new member to our team. What do we need to submit?

To add a team member, you need to submit the same information required during the initial submission for each team member. Specifically, we need the following items:

- Team member signature page, signed by the team member
- Administrative data for the team member (from page three of the BPA)
- Labor rates and category descriptions (as required in Attachment A)
- Web site URL and e-mail contact for the team member (as required in Attachment B)

We have received several requests to add team members who currently hold their own ITSP BPAs. In practice, we've not been requiring all of the above items if the potential "team member" is already an ITSP BPA holder. The logic being that it is a bit redundant to send in all that information if we already have received it from the source. Additionally, if the potential team member holds their own ITSP BPA, then we have already evaluated their suitability for this program. In short, if the potential "team member" you wish to add currently holds an ITSP BPA, then all that is required is the team member's signature page. If the team member has not been awarded an ITSP BPA, then all the above items are required.

Be sure to update your web site to include the URLs for your new team members.

In a related note, subcontractors may be added or deleted at the prime's discretion. There is no requirement to report this to us.